

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-2842.M5

MDR Tracking Number: M5-04-1480-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on January 26, 2004.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. The hot/cold pack therapy, electrical stimulation, unattended, office visits with manipulation, mechanical traction, and initial office visit from 01-21-03 through 07-09-03 that were denied with "U" were found to be medically necessary. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this Order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 09-27-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
02-21-03	97014 97010	\$20.00 \$17.00	\$0.00	No EOB	\$15.00 \$11.00	1996 MFG 133.307(e)(2)(B)	Neither the requestor nor the respondents submitted EOB's for the services rendered on 02-21-03 and therefore will be reviewed in accordance with the 1996 Medical Fee Guidelines. The requestor did not submit proof of reconsideration submission therefore no reimbursement recommended.
02-25-03	99213 97014 97010	\$48.00 \$20.00 \$17.00	\$0.00	No EOB	\$48.00 \$15.00 \$11.00	1996 MFG 133.307(e)(2)(B)	Neither the requestor nor the respondents submitted EOB's for the services rendered on 02-25-03 and therefore will be reviewed in accordance with the 1996 Medical Fee Guidelines. The requestor did not submit proof of reconsideration submission therefore no reimbursement recommended.
02-17-03	97010	\$17.00	\$0.00	No EOB	\$11.00	1996 MFG 133.307(e)(2)(B)	Neither the requestor nor the respondents submitted EOB's for the services rendered on 02-17-03 and therefore will be reviewed in accordance with the 1996 Medical Fee Guidelines. The requestor did not submit proof of reconsideration submission therefore no reimbursement recommended.
01-23-03	97014 97010	\$20.00 \$17.00	\$0.00	No EOB	\$15.00 \$11.00	1996 MFG 133.307(e)(2)(B)	Neither the requestor nor the respondents submitted EOB's for the services rendered on 01-23-03 and therefore will be reviewed in accordance with the 1996 Medical Fee Guidelines. The requestor did not submit proof of reconsideration submission therefore no reimbursement recommended.
01-25-03	99213 97014 97010	\$48.00 \$20.00 \$17.00	\$0.00	No EOB	\$48.00 \$15.00 \$11.00	1996 MFG 133.307(e)(2)(B)	Neither the requestor nor the respondents submitted EOB's for the services rendered on 01-25-03 and therefore will be reviewed in accordance with the 1996 Medical Fee Guidelines. The requestor did not submit proof of reconsideration submission therefore no reimbursement recommended.
04-03-03	99213 97014 97010	\$48.00 \$20.00 \$17.00	\$0.00	No EOB	\$48.00 \$15.00 \$11.00	1996 MFG 133.307(e)(2)(B)	Neither the requestor nor the respondents submitted EOB's for the services rendered on 04-03-03 and therefore will be reviewed in accordance with the 1996 Medical

							Fee Guidelines. The requestor did not submit proof of reconsideration submission therefore no reimbursement recommended.
04-04-03	99213 97014 97010	\$48.00 \$20.00 \$17.00	\$0.00	No EOB	\$48.00 \$15.00 \$11.00	1996 MFG 133.307(e)(2)(B)	Neither the requestor nor the respondents submitted EOB's for the services rendered on 04-04-03 and therefore will be reviewed in accordance with the 1996 Medical Fee Guidelines. The requestor did not submit proof of reconsideration submission therefore no reimbursement recommended.
03-03-03	99213 97014 97010	\$48.00 \$20.00 \$17.00	\$0.00	No EOB	\$48.00 \$15.00 \$11.00	1996 MFG 133.307(e)(2)(B)	Neither the requestor nor the respondents submitted EOB's for the services rendered on 03-03-03 and therefore will be reviewed in accordance with the 1996 Medical Fee Guidelines. The requestor did not submit proof of reconsideration submission therefore no reimbursement recommended.
03-04-03	99213 97014 97010	\$48.00 \$20.00 \$17.00	\$0.00	No EOB	\$48.00 \$15.00 \$11.00	1996 MFG 133.307(e)(2)(B)	Neither the requestor nor the respondents submitted EOB's for the services rendered on 03-04-03 and therefore will be reviewed in accordance with the 1996 Medical Fee Guidelines. The requestor did not submit proof of reconsideration submission therefore no reimbursement recommended.
TOTAL		\$601.00					The requestor is not entitled to any additional reimbursement.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service 01-21-03 through 07-09-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 22nd day of October 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division
PR/pr

NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 3/26/04

MDR Tracking Number: M5-04-1480-01
IRO Certificate Number: 5259

March 22, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified

that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___.

Sincerely,

CLINICAL HISTORY

Patient is a 38-year-old female who sustained compensable injuries to her right shoulder, lower back and neck on ___ when she fell while mopping the floor. She subsequently treated with numerous medical doctors, received countless

medications and injections, and remained off work for over 2 years. She was finally statutorily declared MMI in September of 2002, received a rating of 27% whole person impairment, and finally presented to chiropractic care in January of 2003.

REQUESTED SERVICE(S)

Hot/cold pack therapy (97010), electrical stimulation, unattended (97014), office visits with manipulation (99213-MP), mechanical traction (97012) and initial office visit (99202) for dates of service from 01/21/03 through 07/09/03.

DECISION

Approved.

RATIONALE/BASIS FOR DECISION

Medical necessity for care under Texas Labor Code 408.021(a) is defined as healthcare that:

- Cures or relieves the effects naturally resulting from the compensable injury;
- Promotes recovery, or;
- Enhances the ability of the injured employee to return to or retain employment.

In this particular case, this patient was disabled for over 2 years and tried just about everything short of surgical intervention in management of her injury but achieved very little in the way of relief. Then, with a documented 27% whole person impairment, she finally tried conservative treatment through a doctor of chiropractic. Not only did this change in her treatment afford her the relief she had long sought, it significantly reduced her dependence on pain medications and – more importantly – returned her to gainful employment. Therefore, according

to the Texas Labor Code, the care the treating doctor rendered met all three criterion for being medically necessary.

In terms of the rather lengthy utilization of modalities versus the introduction of therapeutic exercises noted in this case, it is still reasonable and medically necessary because the care was palliative in nature. ____ was already deemed MMI with a significant impairment, and by definition of permanent impairment, the treatment she received was not intended to be curative.